REMARKS

The Examiner has rejected Claims 1-47 under 35 U.S.C. 102(e) as being anticipated by Le Pennec et al. (U.S. Patent Application Publication No. 2001/0020272). Applicant respectfully disagrees with such rejection, especially in view of the amendments made hereinabove to each of the independent claims.

With respect to each of the independent claims, the Examiner has relied on page 2, paragraphs [0046]-[0050] from Le Pennec to make a prior art showing of applicant's claimed "waiting a time interval." Applicant respectfully asserts that such excerpts only teach a time period when computer virus scanning can occur, such as at regular intervals, on-demand, or as an event-activated operation. Thus, the regular intervals disclosed in Le Pennec only relate to intervals between subsequent scans. Clearly, waiting time intervals between scans does not meet applicant's specific claim language when read in context, namely waiting a time interval with respect to an interception of a file access operation and a scan of the file associated with the file access operation.

To further emphasize such distinction, applicant has amended each of the independent claims as follows:

> "monitoring file access operations of a process;
> intercepting a file access operation of the process to a file;
> in response to the intercepting, waiting a time interval between the intercepting and scanning the file for a malware; and
> scanning the file for[a]the a malware, after waiting the time interval"

(emphasis added).

Applicant respectfully asserts that, since Le Pennec only teaches regular time intervals between scans, such reference does not meet applicant's specifically claimed "waiting a time interval between the intercepting and scanning the file for a malware."

The Examiner is reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.*868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

This criterion has simply not been met by the Le Pennec reference, especially in view of the amendments made hereinabove. A notice of allowance or a specific prior art showing of each of the foregoing claimed features, in combination with the remaining claimed features, is respectfully requested.

Applicant further notes that the prior art is also deficient with respect to the dependent claims. For example, with respect to Claim 3 et al., the Examiner has relied on pages 2-16 from Le Pennec to make a prior art showing of applicant's claimed technique "wherein the file access operation is a file write operation." The Examiner has specifically argued that many instances in pages 2-16 relate to applicant's claim language. However, after carefully searching through the entire Le Pennec reference, applicant has not found any specific disclosure of a file access operation being a write operation, let alone where such file access operation is monitored and intercepted in the context claimed by applicant.

With respect to Claim 6 et al., the Examiner has relied on page 2 from Le Pennec to make a prior art showing of applicant's claimed technique "wherein the time interval is user-defined." The Examiner has further argued that "setting the manual time interval is considered [a] user defined time interval." Applicant respectfully asserts that Le Pennec does not teach setting a user defined time interval, as the Examiner has argued. Instead, Le Pennec only generally discloses "regular intervals" but not how those regular intervals are set. Thus, clearly, applicant's specifically claimed "time interval [that] is user-defined" is not met by the Le Pennec reference.

With respect to Claim 7 et al., the Examiner has relied on pages 2-16 from Le Pennec to make a prior art showing of applicant's claimed technique "wherein the time interval is based on a file type of the file." Again, applicant respectfully asserts that the only interval disclosed in Le Pennec is a regular interval in which no further disclosure is made as to how that regular interval is determined. Thus, basing a time interval "on a file type of the file," as claimed by applicant, is not met by the Le Pennec reference.

With respect to Claim 8 et al., the Examiner has relied on pages 2-16 from Le Pennec to make a prior art showing of applicant's claimed technique "wherein the time interval is based on the process." Again, applicant respectfully asserts that the only interval disclosed in Le Pennec is a regular interval in which no further disclosure is made as to how that regular interval is determined. Thus, basing a time interval "on the process," as claimed by applicant, is not met by the Le Pennec reference.

With respect to Claim 12 et al., the Examiner has relied on pages 2-16 from Le Pennec to make a prior art showing of applicant's claimed "allowing the intercepted file access operation of the process to a file to complete." The Examiner has argued that many instances in pages 2-16 relate to applicant's specific claim language. However, after careful review of the entire Le Pennec reference, applicant has not found any disclosure of allowing an "intercepted file access operation...to complete," as claimed. Applicant has noted that Le Pennec only relates to sending virus-free certificate requests (see Abstract), and therefore does not even suggest any sort of "allowing the intercepted file access operation of the process to a file to complete," as claimed by applicant.

With respect to Claim 13 et al., the Examiner has relied on pages 2-16 from Le Pennec to make a prior art showing of applicant's claimed "allowing at least one additional file access operation of the process to a file that occurs before the scanning of the file for a malware to complete." The Examiner has argued that many instances in pages 2-16 relate to applicant's specific claim language. However, after careful review of the entire Le Pennec reference, applicant has not found any disclosure of "allowing at

least one additional file access operation...that occurs before the scanning of the file for a malware to complete." Applicant again notes that Le Pennec only relates to sending virus-free certificate requests (see Abstract), and therefore does not even suggest any sort of "allowing at least one additional file access operation of the process to a file that occurs before the scanning of the file for a malware to complete," as claimed by applicant.

Again, since the Le Pennec reference fails to meet all of applicant's claim limitations, as noted above, a notice of allowance or a proper prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

Still yet, applicant brings to the Examiner's attention the subject matter of new Claims 40-48 below, which are added for full consideration:

"wherein at least a portion of the file access operations are completed before the scanning" (see Claim 40);

"wherein at least a portion of the file access operations are completed during the scanning" (see Claim 41);

"wherein the file access operations that occur on the file after the intercepting of a file write operation are completed before the scanning" (see Claim 42);

"wherein the file access operations that occur on the file after the intercepting of a file write operation are completed during the scanning" (see Claim 43);

"wherein, if a set of the file access operations lasts less than the time interval, only a last file access operation of the set is scanned" (see Claim 44);

"wherein only a sample of a set of the file access operations is scanned" (see Claim 45);

"wherein a final version of the file is scanned, after all of the file access operations of a set are complete" (see Claim 46);

"wherein the time interval is longer than at least one of an open cycle, a write cycle, and a close cycle associated with the file access operations" (see Claim 47); and

"wherein the time interval is initiated after interception of a first file access operation such that, during the time interval, multiple subsequent file access operations are completed without the scanning, after which the file is scanned" (see Claim 48).

Again, a notice of allowance or a proper prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.
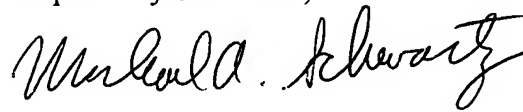
Additional Fees:

The Commissioner is hereby authorized to charge any insufficient fees or credit any overpayment associated with this application to Deposit Account No. 19-5127 (19903.0012).

Conclusion

In view of the foregoing, all of the Examiner's rejections to the claims are believed to be overcome. The Applicants respectfully request reconsideration and issuance of a Notice of Allowance for all the claims remaining in the application. Should the Examiner feel further communication would facilitate prosecution, he is urged to call the undersigned at the phone number provided below.

Respectfully Submitted,

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